



Federal Communications Commission  
Washington, D.C. 20554

November 10, 2022

*In Reply Refer to:*  
1800B3-TSN

**DA 22-1168**  
**Released: November 10, 2022**

**EMAIL AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

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**Re: DW293DS, Camden, New Jersey**  
Facility ID No. 202134  
Application File No. BNPFT-20180508ABL  
CDBS Legal Action ID No. 47112

**Application for Review**

Dear Applicant and Objector:

We have before us an Application for Review (AFR) filed on March 5, 2020, by Prometheus Radio Project (Prometheus).<sup>1</sup> Prometheus seeks reversal of the Media Bureau (Bureau) order denying its Petition for Reconsideration.<sup>2</sup> Prometheus and its fellow objectors Center for International Media Action, and Common Frequency, Inc. (collectively Objectors) sought reconsideration of the denial of their informal objections to 328 cross-service FM translator applications filed in the Auction 99 and 100 windows.<sup>3</sup> Of those 328 Reconsideration Petitions, 327 were dismissed, and only Prometheus's petition against Mega-Philadelphia LLC's (MPL) above-referenced application for a new FM cross-service

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<sup>1</sup> Application for Review of Prometheus Radio Project, filed Mar. 5, 2020 (Application for Review), supplemented by Motion for Leave to File Supplemental Certificate of Service, filed Mar. 6, 2020. *See Broadcast Applications*, Public Notice, Report No. 29691 (MB March 10, 2020). The Application for Review is unopposed.

<sup>2</sup> *Prometheus Radio Project and Mega-Philadelphia, LLC*, Letter Decision, 35 FCC Rcd 182 (MB 2020) (*Camden Reconsideration Decision*).

<sup>3</sup> *See* Petitions for Reconsideration of Prometheus, Center for International Media Action, and Common Frequency, Inc., filed July 9, 2018 (Reconsideration Petitions), seeking reconsideration of *Center for International Media Action, Common Frequency, Inc., and Prometheus Radio Project*, Letter Decision, 33 FCC Rcd 5394 (MB 2018) (*Staff Decision*).

translator station at Camden, New Jersey,<sup>4</sup> was considered and denied on its merits.<sup>5</sup> As a result of changed circumstances and as explained more fully below, the AFR is dismissed as moot.

MPL filed its application for a new FM translator at Camden as part of the Auction 100 filing window.<sup>6</sup> After MPL's application was identified as not being mutually exclusive with any other Auction 100 application, MPL filed its long-form (FCC Form 349) application.<sup>7</sup> One day after MPL's long-form application was accepted for filing, Objectors filed an Informal Objection against "All Pending Translator Applications For Pending Construction Permits For New, Modification, or Minor Changes To FM Translator Stations," including MPL's.<sup>8</sup> The Bureau denied the Informal Objections,<sup>9</sup> granted a construction permit for MPL's requested new facilities,<sup>10</sup> and upheld its decisions on reconsideration.<sup>11</sup> In its Application for Review, Prometheus seeks to reverse the Bureau's *Camden Reconsideration Decision*.<sup>12</sup>

The construction permit for MPL's translator station W293DS (Translator) was granted on June 12, 2018, and was to expire on June 12, 2021. However, the Bureau extended MPL's and others' construction periods for six months, so that the Translator's construction permit actually expired on December 12, 2021.<sup>13</sup> The Bureau notified MPL of the impending expiration of its construction permit;<sup>14</sup> however, MPL never applied for a license for W293DS.

Upon further consideration, we conclude that the AFR is moot due to changed circumstances. MPL failed to construct the Translator's facilities as authorized by December 12, 2021, the construction permit expiration date.<sup>15</sup> Therefore, the construction permit expired by its terms on December 12, 2021,

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<sup>4</sup> File No. BNPFT-20180508ABL.

<sup>5</sup> *Center for International Media Action, Common Frequency, Inc., and Prometheus Radio Project*, Letter Decision, 33 FCC Rcd 6733, 6734-35 (MB 2018) (*Reconsideration Decision*) (stating that only Prometheus had established standing to file a petition for reconsideration); *Camden Reconsideration Decision*, 35 FCC Rcd at 187-88.

<sup>6</sup> *See Revitalization of the AM Radio Service*, First Report and Order, Further Notice of Proposed Rule Making, and Notice of Inquiry, 30 FCC Rcd 12145, 12152-54, paras. 15-17 (2015) (*AMR First R&O*) (announcing two 2016 cross-service FM translator modification filing windows, to be followed by two 2017 auction filing windows for new cross-service FM translators (designated as Auction 99 and Auction 100), available to AM licensees and permittees that did not participate in the 2016 modification windows).

<sup>7</sup> The long-form application was filed on May 8, 2018, and placed on public notice thereafter. *See Broadcast Applications*, Public Notice, Report No. 29236 (MB May 15, 2018).

<sup>8</sup> The Informal Objection filed by Objectors on May 16, 2018, sought dismissal of a total of 994 then-pending FM translator applications, including the Camden Application. MPL did not file an Opposition to the Informal Objection which, as noted, was not directed specifically to its application.

<sup>9</sup> *Staff Decision*, 34 FCC Rcd at 4594, 4600.

<sup>10</sup> *See Broadcast Actions*, Public Notice, Report No. 49258, at 50 (MB June 15, 2018).

<sup>11</sup> *Reconsideration Decision*, 33 FCC Rcd at 6735; *Camden Reconsideration Decision*, 35 FCC Rcd at 187-88.

<sup>12</sup> *See Application for Review* at 1-3.

<sup>13</sup> *See Media Bureau Announces Availability of Construction Deadline Waivers for Certain FM Translator Stations Awarded in Auctions 99 and 100*, Public Notice, 35 FCC Rcd 9555 (MB 2020).

<sup>14</sup> *See* E-Mail from Christina Parker, Industry Analyst, FCC Media Bureau, Audio Division, to Clarence Beverage and F. Reid Avett, Contact Representatives for Mega-Philadelphia LLC (Dec. 10, 2021, 5:00 p.m. EST).

<sup>15</sup> *See* 47 CFR § 73.3598; File No. BPFT-20180508ABL, modified as indicated in note <13>, *supra*, and

and was automatically forfeited.<sup>16</sup> Because this matter is resolved on procedural grounds, we need not reach the substantive arguments in the AFR.

Accordingly, **IT IS ORDERED** that the Application for Review filed by Prometheus Radio Project on March 5, 2020, **IS DISMISSED** without prejudice, for the reasons stated herein, as moot.

Sincerely,

Albert Shuldiner  
Chief, Audio Division  
Media Bureau

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accompanying text.

<sup>16</sup> See 47 U.S.C. § 319(b) (construction permit “shall provide that said permit will be automatically forfeited if the station is not ready for operation within the time specified or within such further time as the Commission may allow, unless prevented by causes not under the control of the grantee.”). See also 47 CFR § 73.3598(e) (“Any construction permit for which construction has not been completed and for which an application for license has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission.”).